

17 February 1970

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MEMORANDUM FOR: Mr. [REDACTED]
Executive Staff

SUBJECT : Changes in the Polygraph Program

1. This is in response to your inquiry regarding changes in the polygraph program originating with concern over (a) the New Left, or (b) invasion of privacy.

2. Concern over the New Left has not required any procedural or policy changes in the polygraph program. The standard coverage for applicant and applicant-type cases designed to detect membership in or activities on behalf of questionable organizations has remained unchanged.

3. Governmental concern on the topic of invasion of privacy is reflected more in the philosophy applicable during polygraph interviews. This concern has not required the elimination of coverage. It has required, however, that questions be phrased and explained in very specific terms, that the subject know precisely what it is the examiner is after before the test begins, and that every effort be made to avoid discussion of matters not within the prescribed coverage. General questions or so-called fishing expedition questions are avoided.

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[REDACTED]
Chief, Interrogation Research Division

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Deputy Director of Security (PS)

28 October 1968

Chief, Interrogation Research Division

Invasion of Privacy

1. Much has been said and will be said on the topic of invasion of privacy. This memorandum may not contribute to the solving of the issue but it is hoped that it will contribute to understanding it.

2. In working on FPM Letter 736- on 25 October, we noted that in discussing requirements on full field investigations, the CSC stresses the need to avoid unwarranted invasion of privacy. Some of the areas and topics which are forbidden to investigations are race, religion, national origin, fraternal affiliations, political affiliations, and attitudes on legislative policies. An exception is permitted if these directly relate to security fitness or subversive activities. No interviewer is permitted to go into sexual behavior or attitudes in the absence of allegations or information indicating sexual misbehavior.

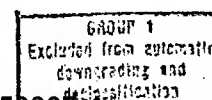
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3. FPM Letter 736-, in the section on polygraph, not only covers the conduct of a polygraph examination and prepolygraph briefings but also calls for safeguards on polygraph information and files to avoid unwarranted invasion of privacy.

4. The CSC inclusion of the word "unwarranted" in the phrase is a welcome change in terminology. The President's Committee on Polygraph made the statements that "Use of the polygraph constitutes an invasion of privacy-----". Its use is warranted only in combating serious threats to national security or public safety. ----- Even when justified, examinations should be conducted under stringent safeguards to protect individuals from coercion, and to assure that their rights will not be compromised."

5. The Civil Service Commission attitude toward polygraphy in FPM Letter 736- appears to me to be at odds with the prior CSC position announced in January 1966 that it is illegal to

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polygraph persons with respect to positions in the competitive service. Earlier, in 1964, CSC had declared polygraph tests in the competitive service to be of doubtful legality because, they said, they were invasions of personal privacy and arbitrary and capricious because of their unreliability.

6. In 1965 CSC, when they abolished psychological tests to measure traits and characteristics, expressed the view that personnel management processes by their nature violated the privacy of an individual. They went on to say that in view of this no individual should be asked to give any information which is not needed by an employer and that when an individual is asked to give information which is not essential his privacy clearly is violated.

7. In working with the President's Committee, a member of the White House Office of Science and Technology described the polygraph as a serious invasion of privacy since it required the individual to exhibit physiological responses which he may not have intended or been willing to reveal.

8. The so-called Ervin Bill contained several specific topics which Senator Ervin and his committee considered to be invasions of privacy. That bill would have prohibited questions about race, religion, relationship with family members, and sexual attitudes and conduct.

9. There seems to be developing a more reasonable attitude toward security processes, to wit: security processes (like other aspects of personnel management) all constitute an invasion of privacy. The problem is not one of eliminating invasion of privacy but, rather, of insuring that what is done is warranted.

10. Polygraphing and psychological testing have already been hit with the first requirement under this viewpoint. That is: establish that the process is reliable and valid. The next problem is a broader one, that of establishing that there is a relationship between the topic being pursued and the national security. Little of this kind of research has been done.

11. Some of the other requirements flowing from this viewpoint have been set forth rather precisely for us; others we shall have to work out on our own. These include special privacy considerations for polygraph files and charts and possible restrictions on monitoring interviews. Other requirements on us include the following:

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- a. we have to use questions that are precise or specific and clearly understood by the subject;
- b. we have to be prepared to discount and reject information which arises through misunderstanding of the question asked or which arises through a mental process of the subject which causes him to talk too much or which prevents him from dealing solely with the specific issue at which we are driving;
- c. we have to avoid going after information which is not used in the decision making process;
- d. we have to treat all comparable subjects the same;
- e. we have to avoid general questions which do not tell the subject what we are after; and
- f. we cannot use a question on topic "x" when what we are really after is topic "y."

12 I do not feel that any of the concern being expressed requires us to alter our approach. The points mentioned in the preceding paragraph describe our current attitudes on and conduct of our job. We may find it necessary to write some new papers or to clarify a point or two but not to undertake any major revamping of the process.

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